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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,413	05/04/2001	John Patrick Quigley	114286.1040	7723

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EXAMINER

RODGERS, MATTHEW E

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/848,413

Applicant(s)

QUIGLEY ET AL.

Examiner

Matthew E. Rodgers

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 January 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 12, 13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Demarco (USPN 6,109,668). Demarco shows first engagement means (20a, 20b) extending from the door and second engagement means (22, 34a, 34b) mounted to the door frame and cooperating with the first engagement means. The first and second engagement means are movable between a first position (Figure 2) where the door is unlatched and a second position (Figure 4) where the first and second engagement means latches the door closed. Actuating means (44, 42, 48) actuate the second engagement means (22, 34a, 34b) to move between the first and second positions, the actuating means having a rotating handle (44) with a handle pin (36) extending therefrom that contacts a slot (56) movable with the second engagement means (22, 34a, 34b) to move the second engagement means from the first position to the second position. The handle rotates past dead center (Figure 3) during movement from the first position to the second position. The handle (44) and handle pin (36) are on opposite sides of the axis of

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rotation of the handle. Slot (56) is a substantially straight slot extending perpendicular to the direction of reciprocating travel of the latch bar.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 7-11, 16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demarco (USPN 6,109,668). Demarco shows an apparatus for latching a door against a frame having a handle (44) rotatably mounted to the frame. A latch bar (30) that is mounted for reciprocal motion relative to the frame has a door pin (34a, 34b) extending therefrom that engages a first slot (formed between members 20a and 20b and the frame) mounted to the door. The first slot is completely defined by the latch bar when the latch bar is placed in direct overlapping relationship with members (20a, 20b) during closure of the door since in this position the latch bar extends beyond the top and bottom and completely between each side of the first slot formed between the members (20a, 20b). The latch bar (22) also has a handle pin (36) that engages a second slot (56) formed in the handle where the handle and the handle pin are on opposite sides of the axis of rotation of the handle. Rotation of the handle from a first position to the second position causes the handle pin (36) to further enter the second slot (56) and the door pin (34a, 34b) to engage the cam surface (37) and enter the first slot. The handle rotates past dead center (Figure 3) during movement from the first position, where the

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door pin is unobstructed by the first slot, (Figure 2) to the second position (Figure 4), where the door pin is obstructed by the first slot. The door is hinged to the frame at one side, and the handle is mounted on the opposite side (Figure 1). The second slot (56) is a substantially straight slot and extends perpendicular to the reciprocating travel of the latch bar (22). The latch bar and the handle are biased toward the first position. The method steps of claims 16 and 18-20 are considered inherent in the structure shown by Demarco.

However, Demarco shows a handle mounted on the door frame instead of the door, the second slot being on the handle lever (42) and the handle pin being on the latch bar, and the first slot being on the door and the door pin being on the latch bar. The structure of Demarco appears to be a mirror image of that shown by the instant invention. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to put the handle and associate actuating structure and door pins on the door and put the slots and camming surfaces on the latch bar, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Gazda*, 219 F.2d 449, 104 USPQ 400 (CCPA 1955).

Claims 3, 4, 6, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demarco in view of Smith (USPN 6,302,098). Demarco teaches all the limitations of claims 1, 12, and 16 as stated above.

However, Demarco does not show that the latch structure includes a gasket between the door and the frame, nor does Demarco show that the door associated with the latch structure is an oven door.

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Smith teaches the use of a latch on an oven door that also utilizes a compressible gasket (96). Smith shows that it is well known and recognized in the art that it is desirable to use a latch to keep an oven door closed when in self-cleaning mode. Further, Smith shows a gasket (96) for the purpose of sealing the oven door. It is understood that the gasket (96) is compressed since Smith states that “the oven door exert[s] pressure on the gasket” and that the gasket must be compressed to a degree. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to use the latch structure shown by Demarco on an oven door having a compressible gasket.

### *Response to Arguments*

Examiner thanks the Applicant for pointing out the typographical error in the previous Office action regarding the rejection of claims 12, 13, and 15 under 35 U.S.C 102. The rejection cited the paragraph from 35 U.S.C. 102(e) where the rejection statement recited “35 U.S.C. 102(b)” when it should have read --35 U.S.C. 102(e)--. The rejection, as maintained above, has been corrected.

Applicant's arguments with respect to claims 12, 13, and 15 have been considered but are not persuasive. With reference to Demarco, Applicant argues that the “handle pin (36) is not located on the handle portion (44)...rather...is located on a different structure, i.e. a slider (30).” The Examiner would like to point out that the language in claim 12 requires a “handle having a handle pin extending therefrom that contacts a slot” and that the handle pin (36) is connected to the handle (44) through the actuating structure (42, 48) and therefore extends from the handle

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(44) and indeed is “movable with the second engagement means to move the second engagement means” as also required by claim 12.

Applicant's arguments with respect to newly amended claims 1-11, 14, and 16-20 regarding the new limitation that the latch bar is “completely defining” the first slot added to independent article claim 1 and independent method claim 16 have been considered and are addressed in the new grounds of rejection set forth above.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew E. Rodgers whose telephone number is (703) 306-3406. The examiner can normally be reached on regular work hours.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

  
MR

March 21, 2003

  
J. J. SWANN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600